

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBIE DAVIDSON,

Plaintiff,

v.

ELDON VAIL, DAN PACHOLKE,
JEFF UTTECH, and JULIE CRUFF

Defendants.

No. C11-6048 BHS/KLS

ORDER DENYING MOTION TO BE
HEARD ON RECORD AS MOOT

Before the Court is Plaintiff's Motion requesting that this Court consider Defendants' motion to dismiss on the "full record of Plaintiff's amended complaint." ECF No. 31.

Plaintiff is advised that when evaluating a motion to dismiss, material allegations of the complaint are taken as admitted and the complaint is to be liberally construed in favor of the plaintiff. *Jenkins v. McKeithen*, 395 U.S. 411, 421, 89 S. Ct. 1843, 1849 (1969), *reh'g denied*, 396 U.S. 869, 90 S. Ct. 35 (1969); *Sherman v. Yakahi*, 549 F.2d 1287, 1290 (9th Cir. 1977). Defendants' motion to dismiss (ECF No. 27), Plaintiff's Amended Complaint (ECF No. 6), and Plaintiff's response to Defendants' motion to dismiss have all been considered and the Court's conclusions will be made the subject of a separate Report and Recommendation.

Accordingly, it is **ORDERED**:

(1) Plaintiff's motion (ECF No. 31) is **DENIED as moot**.

1 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
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3 **DATED** this 28th day of January, 2013.
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6 Karen L. Strombom
7 United States Magistrate Judge
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